

SB 67 (Laible)

SENATE EDUCATION
EXHIBIT NO. 2
DATE 1/12/2009
BILL NO. 67

Title: Prohibits the board of public education from implementing any rule, policy, or standard that will have a substantial financial impact on a school district until the legislature appropriates money to fund . . .

effective on passage and approval

Opposition observations:

SB 67:

- Latest iteration in a long line of legislative attempts to prune back if not eliminate the board of public education's well-established and practiced authority to prepare, adopt, and amend standards of school accreditation and teacher licensure.
- Repeals current law that delays board of public education implementation of any standard found to have a "substantial fiscal impact" . . . "until July 1 following the next regular legislative session."
- Relegates the board of public education to advisory status and transforms the legislature into the board of public education . . . and thus politicizes the process and adoption of school accreditation standards.
- Likely unconstitutional. Abrogates by legislative act Sherlock district court opinion in Montana Board of Public Education v. State, 1992, that held that Article X, section 9(3), of the 1972 Constitution provided the Board of Public Education with "constitutional rule-making authority" that is "self-executing and independent of any power that is delegated to the Board by the legislature," (See next to last "Whereas," page 2, lines 13-16.)
- Like current law, defines "substantial fiscal impact" to be "an amount that cannot be readily absorbed in the budget of an existing school district program" thereby creating an inequity in school program

offerings as districts are always at any one point in time variously able to implement new standards.

- Presumes a static system of elementary and secondary school standards that can never be modified except as legislative appropriations permit.

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